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09/401,873	09/23/1999	Stuart Serkin	09857/029001	5264
26161	7590	07/13/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			JAKETIC, BRYAN J	
			ART UNIT	PAPER NUMBER

3627

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/401,873  
Filing Date: September 23, 1999  
Appellant(s): SERKIN ET AL.

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Denis G. Maloney  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 21 May 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1, 2, 4, 5, and 7-29 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

6,278,982	KORHAMMER et al.	8-2001
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6,377,982	RAI et al.	4-2002
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Smith, Jeffrey W. et al "The NASDAQ Stock Market: Historical Background and Current Operation" NASD Working Paper 98-01.

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 4, 5, 14-17, 20-22, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korhammer et al in view of Rai et al. This rejection is set forth in a prior Office Action, mailed on 27 October 2003.

Claims 7-13, 18, 19, 23-25, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korhammer et al and Rai et al and in further view of Smith. This rejection is set forth in a prior Office Action, mailed on 27 October 2003.

**(11) Response to Argument**

Group I (claims 1, 4, 7-12)

Appellant argues that "neither Korhammer nor Rai teach the feature of an order routing/execution manager to provide for all orders received by the common interface either a single point delivery of executions or routing of orders in accordance with parameters of the order." Although Examiner believes that a broad interpretation of the Consolidating Computer System 100 may meet this limitation, Examiner has conceded that Korhammer et al do not expressly teach this limitation. However, Examiner

maintains that Rai et al teach the use of single access point in col. 47, line 45 through col. 48, line 5, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Rai et al with the invention of Korhammer et al to provide a single point delivery of executions.

Appellant further argues that there is no motivation to combine the teachings of Rai et al with the invention of Korhammer et al. Examiner respectfully disagrees. Rai et al state, "a single access point or access hub or IWF unit may act on traffic from multiple end systems, and what is described herein as separate access points, access hubs or IWF units contemplates equivalence with a single multi-channel access point, access hub or IWF unit." Rai et al therefore expressly states that a single access point structure is equivalent to a multi-channel access point. MPEP § 2144.06 states that the substitution of equivalent elements is prima facie obvious. The MPEP further states "In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents." Examiner maintains that the rejection properly uses equivalence because the prior art expressly recognizes said equivalence.

Group II (claims 2 and 13)

Appellant argues that Korhammer et al do not teach the coupling of execution and negotiation systems to the common interface. Examiner respectfully disagrees. Korhammer et al teaches that execution systems are coupled to the interface (col. 5, lines 58-66) as are negotiation systems (see col. 10, lines 12-14).

Group III (claim 5)

Appellant argues that Korhammer et al do not teach an aggregate montage or current quote montage. Examiner respectfully disagrees. Examiner maintains that Figures 4 and 5 depict an aggregate montage, as explained in col. 9, lines 9-25.

Group IV (claims 14, 15)

Appellant argues that Korhammer et al do not suggest an order type in which the order is displayed but not attributed. However, claim 14 employs conditional language in the limitation of "an attributable quote montage if the quotes are attributable consistent with parameters specified in the quotes." Claim 14 therefore does not affirmatively claim an order type in which the order is displayed but not attributed, and Appellant's argument is therefore moot.

Group V (claim 16)

Appellant argues that Korhammer et al do not teach a process for displaying quotes at multiple price levels in the aggregate montage. Examiner respectfully disagrees. Korhammer et al expressly teach the step of displaying multiple price levels in the aggregate montage in col. 9, lines 9-25.

Group VI (claims 17-19, 25)

Appellant argues that Korhammer does not provide a single point delivery of executions. Examiner addressed this argument in Group I.

Group VII (claims 20, 22-24)

Appellant argues that Korhammer et al do not teach that the received orders from ECNs have attribution parameters that can be used by the market for displaying in a

quote montage consistent with the attribution parameters. Examiner respectfully disagrees. Korhammer et al teach an aggregate montage that displays quotes in a montage consistent with attribution parameters (see col. 9, lines 9-25).

Group VIII (claims 21 and 26-29)

Appellant argues that Korhammer et al do not teach an aggregate montage or attribution parameters. Examiner has addressed these arguments in Groups III and VII. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



bj  
July 7, 2004

Conferees  
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